

# Notice of Allowability

Application No.

10/053,976

Examiner

L. G. Lauchman

Applicant(s)

OSHIDA ET AL.

Art Unit

2877

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☐ This communication is responsive to \_\_\_\_.
2. ☒ The allowed claim(s) is/are 1-17.
3. ☒ The drawings filed on 18 January 2002 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
  - \* Certified copies not received: \_\_\_\_.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
  - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No. \_\_\_\_.
  - (b) ☐ including changes required by the proposed drawing correction filed \_\_\_\_, which has been approved by the Examiner.
  - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. \_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the margin according to 37 CFR 1.121(d).

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

- |   |   |
|---|---|
| 1 <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                      | 5 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)          |
| 2 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                             | 6 <input type="checkbox"/> Interview Summary (PTO-413), Paper No. ____.             |
| 3 <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No. ____ | 7 <input checked="" type="checkbox"/> Examiner's Amendment/Comment                  |
| 4 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material          | 8 <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
|   | 9 <input type="checkbox"/> Other  |

### **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

The application has been amended as follows: In Claim 15, line 2, the number "1" has been replaced with the number --11--. The amended Claim 15 is the following:

15. A DNA inspection apparatus according to Claim 11, wherein said wavelength separation fluorescence detection system makes detection by counting photons.

### ***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Allowable Subject Matter***

Claims 1-17 are allowed.

The following is an examiner's statement of reasons for allowance:

As to Claim 1, the prior art of record taken along or in combination, fails to disclose or render obvious irradiating a sample with minute spot excitation lights having a plurality of M kinds of wavelengths and changing said spot excitation lights and a position on the sample irradiated with the spot excitation lights over a desired area

Art Unit: 2877

relatively by the number of times smaller than the number L of kinds of the fluorescence –marked materials, in combination with the rest of the limitations of the claim.

As to Claim 11, the prior art of record taken along or in combination, fails to disclose or render obvious a plurality of light sources for emitting lights having a plurality of M kinds of wavelengths different from one another and a driving stage for changing a relative position of said minute spot excitation lights and said DNA over a desired area, and a plurality of fluorescent-mark simultaneous means for constructing fluorescent image information by scanning the desired area once in response to change of said relative position, in combination with the rest of the limitations of the claim.

As to Claim 16, the prior art of record taken along or in combination, fails to disclose or render obvious irradiating a sample containing a plurality of L kinds of fluorescent materials with minute spot excitation lights, and changing said spot excitation lights and a position on the sample irradiated with the spot excitation lights over a desired area relatively by the number of times smaller than the kinds L of the fluorescent materials, in combination with the rest of the limitations of the claim.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Art Unit: 2877

**Conclusion**

Papers related to this application may be submitted to Technology Center 2800 by facsimile transmission. Papers should be faxed to TC 2877 via the PTO Fax Center located in CP4-4C23. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CP4 Fax Center number is (703) 872-9306.

If the Applicant wishes to send a Fax dealing with either a Proposed Amendment or for discussion for a phone interview then the fax should:


a) Contain either the statement "DRAFT" or "PROPOSED AMENDMENT" on the Fax Cover Sheet; and

b) Should be unsigned by the attorney or agent.

This will ensure that it will not be entered into the case and will be forwarded to the examiner as quickly as possible.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to L. G. Lauchman whose telephone number is (571) 272-2418.

Any inquiry of a general nature or relating to the status of this application should be directed to the TC receptionist whose telephone number is (571) 272-1562.

  
L. G. Lauchman  
Patent Examiner  
Art Unit 2877  
1/24/04/lgl

  
For Frank G. Font  
Supervisory Patent Examiner  
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Richard A. Rosenberger  
Primary Examiner